

AO 120 (Rev. 2/99)

SOLICITOR

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	APR - 9 2008	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following Patents or Trademarks:

DOCKET NO. CV 08-01735 JCS	DATE FILED 4/1/08	U.S. DISTRICT COURT 450 Golden Gate Avenue, 16 th Floor, Box 36060, S.F. CA 94102
PLAINTIFF MAQUET CARDIOVASCULAR, L.L.C.	DEFENDANT TERUMO CORPORATION, ET AL.	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 <u>Re 36,043</u>		*PLEASE SEE ATTACH COMPLAINT*
2 <u>6,830,546</u>		
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In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Gina Agustine-Rivas	DATE April 2, 2008
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

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08 APR -1 AM 9:26

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
FEB 11 2008 S.J.

E-FILING

ADR

I hereby certify that the annexed
instrument is a true and correct copy
of the original on file in my office.

ATTEST:

RICHARD W. WIEKING
Clerk, U.S. District Court
Northern District of California
By GINA AUGUSTINE-RIVAS
Deputy Clerk
Date 02/14/08

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

C08 0173JCS

MAQUET CARDIOVASCULAR, L.L.C., a
Delaware L.L.C.,

Plaintiff,

v.

TERUMO CORPORATION, a Japanese
corporation and TERUMO
CARDIOVASCULAR SYSTEMS
CORPORATION, a Delaware corporation,

Defendants.

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

COMPLAINT

2 Plaintiff Maquet Cardiovascular L.L.C. ("Maquet") hereby alleges for its
3 Complaint against defendants Terumo Corporation and Terumo Cardiovascular Systems
4 Corporation (collectively "Terumo"), on personal knowledge as to its own activities and on
5 information and belief as to the activities of others, as follows:

The Parties

7 1. Maquet Cardiovascular L.L.C. ("Maquet") is a Delaware limited liability
8 company with its principal office at 170 Baytech Drive, San Jose, California 95134. Maquet is
9 an innovative company focused on developing medical solutions that enable quicker, safer, and
10 more cost effective treatment of patients.

11 2. Terumo Corporation is a Japanese corporation with its headquarters at 44-1, 2-
12 chome, Hatagaya, Shibuya-ku, Tokyo, 151-0072, Japan. Terumo is a multi-billion dollar, global
13 medical products company. According to Terumo's website, its main business is the
14 “[m]anufacture and sales of medical products and equipment, including pharmaceuticals,
15 nutritional food supplement, blood bags, disposable medical devices, cardiovascular systems,
16 vascular grafts, peritoneal dialysis, blood glucose monitoring system, medical electronic, and
17 digital thermometers.” Terumo Corporation - About Terumo - Profile, <http://www.terumo.co.jp>
18 /English/company/index.html (last visited Mar. 28, 2008).

19 3. Terumo Cardiovascular Systems Corporation (“TCS”) is a Delaware corporation
20 with its principal place of business at 6200 Jackson Road, Ann Arbor, Michigan 48103. On
21 information and belief, TCS is an indirect (through Terumo Medical Corporation) wholly owned
22 subsidiary of Terumo Corporation. On information and belief, TCS is entirely controlled by
23 Terumo Corporation, and operates as a department of Terumo Corporation. TCS maintains a
24 manufacturing facility in California at 1311 Valencia Ave., Tustin, California 92780. According
25 to TCS’s website, “Terumo Cardiovascular Systems ... develop[s] and manufacture[s] precision-
26 focused products for the specialized needs of the cardiac surgical team with an emphasis on
27 cardiopulmonary bypass and intraoperative monitoring.” Terumo Cardiovascular Systems --
28 About Us. http://www.terumo-cvs.com/about_us/default.asp (last visited Mar. 28, 2008).

Jurisdiction

2 4. This Court has jurisdiction over the subject matter of this case pursuant to
3 28 U.S.C. §§ 1331 and 1338(a) because this is an action for patent infringement arising under the
4 patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5 5. This Court has personal jurisdiction over Defendant Terumo Corporation based
6 upon, but not limited to, its minimum contacts with this state and/or the activities of TCS, which
7 operates as Terumo Corporation's general agent, in this state. On information and belief,
8 Terumo's accused products are and have been sold in California.

9 6. This Court has personal jurisdiction over Defendant TCS based upon the physical
10 presence of its Tustin manufacturing facility in this state and its economic activities conducted in
11 and/or directed at this state. On information and belief, Terumo's accused products are and have
12 been sold in California.

Venue and Intra-district Assignment

14 7. Venue is proper in this division pursuant to 28 U.S.C. §§ 1391(d) and 1400(b)
15 because defendants are subject to personal jurisdiction in this judicial district, having conducted
16 business and committed acts of infringement in this judicial district, and/or are aliens subject to
17 suit in any district.

18 8. Per Civil Local Rule 3-2(c), this patent infringement action may be assigned on a
19 district-wide basis. Maquet, which has its principal place of business in San Jose, California,
20 requests that this matter be assigned to the San Jose Division.

Background

22 9. Maquet is the owner of all right, title and interest, by assignment, of U.S. Patent
23 No. Re. 36,043 ("the '043 Patent"), entitled "Endoscope and Method for Vein Removal" and
24 attached as Exhibit A hereto, and U.S. Patent No. 6,830,546 ("the '546 Patent"), entitled "Device
25 and Method for Remote Vessel Ligation" and attached as Exhibit B hereto (collectively, the
26 "Patents in Suit").

27 10. The Patents in Suit involve innovative technology that allows for a minimally
28 invasive technique for harvesting healthy blood vessels from a patient for use in other parts of

1 the patient's body, such as in heart bypass surgery, or for use in another patient's body. This is
2 an improvement over conventional vein harvesting methods, including making a long incision
3 along the full length of the vein section for removal. The technology described and claimed in
4 the Patents in Suit allows for a vessel section to be harvested through one or more small
5 incisions, thereby obviating the need to make a long incision along the full length of the vessel
6 section. Among the benefits of this technology is that it reduces trauma and recovery time for
7 the patient.

8 11. Maquet develops, manufactures, markets, and sells or has sold endoscopic vein
9 harvesting products that use this innovative technology, including: VasoView® HemoPro™,
10 VasoView® 7xB™, VasoView® 7xS™, VasoView® 6, VasoView® 5, VasoView® 4, and
11 other products having similar configurations ("the VasoView® Products").

12 12. On information and belief, Terumo Corporation uses, imports, distributes, sells,
13 and/or offers for sale, including in the United States and in this Judicial District in the State of
14 California, the VirtuoSaph™ Endoscopic Vein Harvesting System ("VirtuoSaph™") and/or
15 components thereof. Such conduct infringes Maquet's rights in and to the Patents in Suit.

16 13. TCS uses, imports, distributes, sells, and/or offers for sale, including in the United
17 States and in this Judicial District in the State of California, the VirtuoSaph™ product and/or
18 components thereof. On information and belief, TCS maintains a network of subsidiaries, sales
19 branches, and/or third party distributors that offers to sell and have sold the VirtuoSaph™
20 product in the United States. Such conduct infringes Maquet's rights in and to the Patents in
21 Suit.

22 14. The VasoView® Products have been marked with the numbers of the Patents in
23 Suit.

24 **FIRST CAUSE OF ACTION**
25 **(Infringement of U.S. Patent No. Re. 36,043)**

26 15. Maquet repeats and incorporates by reference the allegations contained in the
27 paragraphs above.

28 16. Terumo Corporation and TCS, through their using, importation, selling, and

1 offering for sale of the VirtuoSaphTM product in the United States, have infringed and continue to
2 infringe the '043 Patent directly, contributorily, and/or by inducement, either literally or under
3 the doctrine of equivalents, in violation of 35 U.S.C. § 271.

4 17. Maquet has suffered damages due to the acts of infringement by the Terumo
5 defendants in an amount to be established at trial.

6 18. The Terumo defendants' infringement has been willful and deliberate.

7 19. Unless enjoined by this Court, Terumo Corporation and TCS will continue to
8 infringe '043 Patent, and Maquet will suffer damages and irreparable harm.

9 **SECOND CAUSE OF ACTION**
10 **(Infringement of U.S. Patent No. 6,830,546)**

11 20. Maquet repeats and incorporates by reference the allegations contained in the
12 paragraphs above.

13 21. Terumo Corporation and TCS, through their using, importation, selling, and
14 offering for sale of the VirtuoSaphTM product in the United States, have infringed and continue to
15 infringe the '546 Patent directly, contributorily, and/or by inducement, either literally or under
16 the doctrine of equivalents, in violation of 35 U.S.C. § 271.

17 22. Maquet has suffered damages due to the acts of infringement by the Terumo
18 defendants in an amount to be established at trial.

19 23. The Terumo defendants' infringement has been willful and deliberate.

20 24. Unless enjoined by this Court, Terumo Corporation and TCS will continue to
21 infringe the '546 Patent, and Maquet will suffer damages and irreparable harm.

22 **Prayer for Relief**

23 25. WHEREFORE, Maquet requests that the Court enter judgment in its favor and
24 against Terumo as follows:

25 (a) Granting a preliminary and permanent injunction enjoining Terumo
26 Corporation and TCS, and each of their respective officers, agents, representatives, distributors,
27 employees, affiliates, parent and subsidiary corporations, and all those in privity or acting in
concert with them, from further infringing, contributing to and/or inducing the infringement of

1 the Patents in Suit;

2 (b) Awarding compensatory damages to Maquet, including but not limited to

3 lost profits and/or a reasonable royalty, according to proof at trial;

4 (c) Awarding treble damages to Maquet, including pursuant to 35 U.S.C. § 284;

5 (d) Awarding attorneys' fees to Maquet, including pursuant to 35 U.S.C. § 285;

6 (e) Awarding such other relief as the Court deems just and proper.

7 Dated: April 1, 2008

8 BINGHAM McCUTCHEN LLP

9
10 By: 

11 James Snell
12 Attorneys for Plaintiff
13 MAQUET CARDIOVASCULAR, L.L.C.
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Jury Trial Demanded

2 Plaintiff Maquet Cardiovascular, L.L.C. hereby demands a jury trial on all issues
3 triable to a jury in this action.

4 Dated: April 1, 2008

BINGHAM McCUTCHEN LLP

By

James Snell
Attorneys for Plaintiff
MAQUET CARDIOVASCULAR, L.L.C.